

# **Exhibit 49**

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ROBERT VAN WEBER, ET AL. : IN THE DISTRICT COURT OF  
VS. : HARRIS COUNTY, T E X A S  
UNIVERSAL COMPUTER SYSTEMS, :  
INC., ET AL. : 270TH JUDICIAL DISTRICT

DEPOSITION OF ROBERT THERON BROCKMAN

AFTERNOON SESSION

December 3, 1998

Houston, Texas

**CONFIDENTIAL**

CONDENSED  
TRANSCRIPT

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1 yet to be paid?  
2 A. I would presume that's what he's referring to.  
3 Though, I didn't write this letter.  
4 Q. Okay. "The fact that your earnings in '94 were  
5 enormous proves that you have a continuous stream  
6 of income at a substantial level"; is that not  
7 correct?  
8 A. Should he continue to stay employed with us.  
9 Q. Well, where did you read that?  
10 A. Again, as I've stated a number of times today,  
11 it's custom and practice of the company that  
12 salespeople are only paid while they're employed.  
13 MR. MORRISON: All right. The next one.  
14 (Brockman Exhibit Numbers 23 and 24 were  
15 marked for identification.)  
16 Q. (By Mr. Morrison) Mr. Brockman, I believe this is  
17 another memorandum to Scott Johnson from you; is  
18 that correct?  
19 A. Yes.  
20 Q. And that's Exhibit 23?  
21 A. Yes.  
22 Q. And it was written December 14th, '94; is that  
23 correct?  
24 A. Yes.  
25 Q. Now, it says, "Records indicate that you also

1 re-ups.  
2 A. Yeah.  
3 Q. It doesn't say anything about potential.  
4 A. That's true. "Potential" is not in the first  
5 line. It is in the second.  
6 Q. We had marked as Exhibit 24 a number of Brockman  
7 memos under your direction and control dealing  
8 with the issue of fines; is that correct? And you  
9 can flip through those. I'm not going to ask you  
10 about those, other than just to get you to  
11 identify those as being assessments or warnings  
12 about the imposition of fines or the threatened  
13 imposition of fines.  
14 A. I do recognize some of these. And certainly here  
15 is notification that fines are going to be  
16 assessed for, you know, failure to perform  
17 assigned tasks and normal business functions.  
18 Q. Do all of those relate to various fines that you  
19 imposed?  
20 A. Yes.  
21 Q. Or threatened to impose; is that correct?  
22 A. Yes.  
23 Q. All right. Now, referred to earlier was your  
24 power to transfer salesmen about district to  
25 district; is that right? You had that power under

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1 stand to earn another \$140,953 in the back-end of  
2 UCS re-ups"; is that correct?  
3 A. That's what it says.  
4 Q. All right. Was that accurate on the date as to  
5 what was owed to him in UCS re-up revenues?  
6 A. That was an indication of what potential  
7 commissions that he would earn assuming he stayed  
8 in place and stayed employed from re-up contract  
9 negotiations that he was involved in.  
10 Q. And the FDGS re-up's back-end potential was  
11 \$140,932; is that correct?  
12 A. Yes. That's what it says.  
13 Q. Okay. And that was accurate, those figures, just  
14 the figures?  
15 A. I believe those were correct, to the best of my  
16 knowledge.  
17 And you'll also note that they're clearly  
18 shown as potential.  
19 Q. Well, potential --  
20 A. In other words, they're not earned. They're  
21 potential.  
22 Q. Well, it doesn't say that about UCS, does it?  
23 "You stand to earn another 140"?  
24 A. It says "potential" right there (indicating).  
25 Q. Read that line right there, 140 back-end of

1 the sales plans?  
2 A. Yes. Under the sales plans we have the power to  
3 reassign salespeople and also reassign accounts.  
4 Though, I might add, that's done, you know, very,  
5 very infrequently, because we value the goodwill  
6 of the relationship between the customer and the  
7 regional manager and their accounts, and we want  
8 to maintain that intact as much as possible.  
9 Q. Well, I suppose what I'm saying is: There was  
10 never a client in a territory that didn't have a  
11 salesman assigned to it and servicing and  
12 educating and taking care of that client is what  
13 your goal was; was it not?  
14 A. That was my goal, yes.  
15 MR. MORRISON: Would you mark that, please?  
16 (Brockman Exhibit Number 25 was  
17 marked for identification.)  
18 Q. (By Mr. Morrison) I'm going to show you what has  
19 been marked as Exhibit 25.  
20 A. Yes.  
21 Q. And it's a memo from you, sir?  
22 A. Yes, it is.  
23 Q. You know that the suit to which you are a party  
24 that we're here taking your deposition on was  
25 filed on August 4th, 1995?



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1 A. I don't recall the exact date.  
2 Q. When you prepared this memo about the destruction  
3 of Daytimers, was that because of the pendency of  
4 this or any other suit?  
5 A. No, it was not. As the memo states, it was in  
6 response to an article I read in the newspaper.  
7 Q. What all did you destroy?  
8 A. Daytimers contain personal information, and the  
9 crux of the article that caused me to write this  
10 memo had to do with personal information being  
11 pulled into a discovery process.  
12 Q. It says here, "Since we document everything  
13 necessary for substantiation of reporting by  
14 attaching all receipts to our expense accounts and  
15 describing the people/purposes of the expenses,  
16 there's no legal requirement for tax purposes for  
17 retention of Daytimers."  
18 Does that mean that this information on  
19 expense reporting with the description of people  
20 and purposes of these accounts was contained in  
21 the Daytimers that you wanted destroyed and  
22 ultimately destroyed?  
23 A. There's a -- I don't know whether you're familiar  
24 with a Daytimer or not, but there's a section in  
25 which you can, if you so desire, record your

1 A. No, I did not.  
2 Q. (By Mr. Morrison) What all was contained in your  
3 Daytimer that you recall relative to issues  
4 involved in this case?  
5 A. None.  
6 Q. How many other lawsuits were you involved in on  
7 the date -- "you" being the Defendants in this  
8 case -- both corporate and individually, were you  
9 involved in on the date of this memorandum,  
10 November 3rd, 1995?  
11 A. I don't recall.  
12 Q. Who would know that?  
13 A. The legal department, I guess.  
14 Q. And who in the legal department would I have to  
15 ask that question of?  
16 A. Scott Cherry, I would guess.  
17 Q. So, if I ask Scott Cherry of the legal department  
18 for the style and number of all cases that you  
19 were involved in on that date, he could tell us  
20 that?  
21 A. I believe so.  
22 Q. Okay.  
23 A. You know, certainly John Allen could give us that  
24 same information.  
25 Q. Well, in November of '95, was John representing

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1 - expense information. And that's really not  
2 necessary since we require that information be put  
3 on expense reports that are filed for  
4 reimbursement. And, so, therefore, you know, the  
5 Daytimers are not really required to support the  
6 expense reports.  
7 Q. Did you destroy your Daytimer?  
8 (Discussion off the record.)  
9 Q. (By Mr. Morrison) Did you destroy your Day-Timer  
10 in accordance with this memo?  
11 A. The ones that I had, I did.  
12 Q. Which ones did you have?  
13 A. I had just, you know, the last year or two worth.  
14 Q. This was in '95. So, you would have had '95  
15 destroyed?  
16 A. Yeah. Probably just what I had so far in '95.  
17 Q. How about '94?  
18 A. '94 was already gone.  
19 Q. '93 already gone?  
20 A. Yeah. I didn't -- I had not made a practice of  
21 keeping Daytimers.  
22 Q. Did you destroy any other evidence besides the  
23 Daytimers?  
24 MR. ALLEN: Objection to the form of the  
25 question.

1 UCS and related Defendants, including maybe  
2 yourself if you were a Defendant, in all cases  
3 that were pending?  
4 A. Yes.  
5 Q. Okay. So, either John or the other fellow you  
6 mentioned --  
7 A. Yes.  
8 Q. -- could give us the style and number of the  
9 cases?  
10 Did you personally assist Gary Bechtel in  
11 making a transition so that he would have or get  
12 marketing rights to the ports?  
13 A. No, I did not.  
14 MR. MORRISON: I'm going to pass the  
15 witness.  
16 (Recess.)  
17  
18 EXAMINATION BY MR. ESTLINBAUM:  
19 Q. Mr. Brockman, my name is Craig Estlinbaum. As you  
20 know, I represent five of the Interveners in this  
21 case, Mike Eyre, Mike Hoseman, Mark Mentil, Joe  
22 Murray, and David Reyna. And just as the case was  
23 with Mr. Morrison, you remain under oath. Do you  
24 understand that?  
25 A. Yes.